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Sept. 12

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Mr. James J. Barry, Commissioner  
Department of Public Welfare  
State House Annex

CONCORD, N.H.

Dear Sir:

In a conference with Mr. Thompson of your staff, on September 8, 1952, inquiry was made of us whether the Department of Public Welfare could provide for the payment of taxes on the property of a recipient; inquiry was further made whether, in a case where the recipient failed to apply funds granted for the payment of taxes to that purpose, the Department might provide an additional sum and cause the taxes to be paid with it. We answer to both questions in the affirmative.

The expressed purpose of R. L. c. 126 is to provide assistance for those eligible persons who are in need. The exact method by which such assistance is to be granted is not prescribed, but is left to the Board of Public Welfare which, in rules and regulations sets forth the particular action to be taken by the Department to carry out the provisions of the law.

While the primary intent of chapter 126 is to provide assistance to eligible persons, devices whereby the interests of the State of New Hampshire in connection with furnishing such assistance shall be protected to the fullest extent possible are of prime importance in the law. Among such devices are the provisions which require the filing of liens against the property of recipients (section 32), and those which permit recovery against the estate of the recipient of assistance granted (section 19).

Since the imposition of a tax lien and action thereunder by a municipality raises serious questions of law as to the validity of liens filed by the Department against the property of a recipient; and since sale of the property by a municipality might render a recipient homeless

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ATTORNEY-GENERAL

Mr. James J. Barry

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therby increasing the cost of support, it is a quite reasonable and wholly authorized action on the part of the Board of Public Welfare to provide in rules and regulations that assistance furnished take into account the need of paying the taxes and allowance be made therefor.

The recipient to whom funds for payment of taxes has been furnished ought, of course, to apply such funds to that purpose. Failure on his part to do so does not, however, relieve you of your duty to protect the interests of the State by payment of taxes if as a result of the recipient's failure, a tax sale may be imminent. Your attention is invited to R. L. c. 50 s. 15 as inserted by Laws 1949, c. 230 in which the Legislature has required that the Commissioner of Public Welfare be notified of tax sales within thirty days from the date thereof. The sole purpose of this section is to permit the Department of Public Welfare to redeem; your duty to do so is clear, and, of course, you may anticipate a sale if aware of it. In either case, you will employ the usual combination of state and federal funds with the municipality contributing as provided in R. L. c. 126 s. 21 as amended.

Nothing herein is intended to limit any steps you may be able to take to recover from the recipient the amounts which he has failed to apply to his tax payments, within the limitations imposed by the Board of Public Welfare and the federal government.

Very truly yours,

Warren E. Waters  
Assistant Attorney General

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